

**N. KEITH CHAMBERS**  
**EXECUTIVE DIRECTOR**

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

**IN THE MATTER OF:**

**GERMAN JARQUIN,**

**Complainant,**

**and**

**MINER ENTERPRISES, INC.,**

**Respondent.**

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**Charge No.: 2008CF3357**

**EEOC No.: 21BA82099**

**ALS No.: 09-656**

**Judge Lester G. Bovia, Jr.**

**RECOMMENDED ORDER AND DECISION**

This matter has come to be heard on Respondent's Motion to Dismiss for Want of Prosecution ("Motion"). Although he was duly served with the Motion, Complainant did not file a response.

The Illinois Department of Human Rights ("Department") is an additional statutory agency that has issued state actions in this matter. Therefore, the Department is an additional party of record. Moreover, the Department was duly served with the Motion and given an opportunity to be heard. Accordingly, this matter is now ready for disposition.

**FINDINGS OF FACT**

The following facts were derived from the record file in this matter:

1. On December 21, 2009, Respondent filed its first motion to dismiss on grounds that the Commission lacked jurisdiction over the complaint. Respondent presented its motion on January 13, 2010. Though duly served with a notice of motion, Complainant did not appear, either personally or through counsel, for the presentation of Respondent's motion.
2. By order dated January 13, 2010, a briefing schedule was set for Respondent's motion. Though duly served with the January 13 order and the motion, Complainant filed no response to the motion. Nevertheless, Respondent's motion was denied by order dated February 25, 2010.

The February 25 order, which was duly served, also reminded the parties of their previously scheduled, first status conference date: March 10, 2010.

3. Respondent appeared at the status conference through counsel. Complainant did not appear, either personally or through counsel. Accordingly, Respondent was granted leave to file this Motion by order dated March 10, 2010.

4. The March 10 order set a briefing schedule for Respondent's Motion. Although Complainant was duly served with the Motion and the March 10 order, he never filed a response to the Motion.

#### CONCLUSIONS OF LAW

1. Complainant's failure to prosecute his case has unreasonably delayed the proceedings in this matter.

2. As a result of Complainant's failure to prosecute his case, this Motion should be granted.

#### DISCUSSION

Though the viability of his claim was directly challenged by Respondent's first motion to dismiss, Complainant failed to appear at the presentation of the motion or to file any response to the motion. Fortunately for Complainant, Respondent's motion was denied anyway. However, Complainant also failed to appear for a status conference soon thereafter. Furthermore, Complainant has not responded to this Motion or provided any justification whatsoever regarding his failure to prosecute his case. It appears that Complainant simply has abandoned his claim.

The Commission routinely dismisses abandoned claims. See, e.g., Diaz and Sun Steel, IHRC, ALS No. 07-688, March 17, 2009; Leonard and Solid Matter, Inc., IHRC, ALS No. 4942, August 25, 1992. The Commission also has dismissed cases where complainants have engaged in conduct that unreasonably delays proceedings before the Commission. See, e.g., Stewart and SBC Midwest, IHRC, ALS No. 04-227, March 22, 2006; Jackson and Chicago Firefighters Union Local No. 2, IHRC, ALS No. 8193, September 29, 1997.

Complainant's conduct has unreasonably delayed the proceedings in this matter. Therefore, this case should be dismissed.

RECOMMENDATION

Based on the foregoing, it is recommended that: 1) Respondent's Motion be granted; and 2) the complaint and underlying charge be dismissed in their entirety with prejudice.

**HUMAN RIGHTS COMMISSION**

**BY: \_\_\_\_\_**

**LESTER G. BOVIA, JR.  
ADMINISTRATIVE LAW JUDGE  
ADMINISTRATIVE LAW SECTION**

**ENTERED: April 19, 2010**